

TESTIMONY OF CHARLES C. MADDOX, ESQ.
INSPECTOR GENERAL
BEFORE THE COMMITTEE ON HUMAN SERVICES
RE-INSPECTION OF THE DEPARTMENT OF HEALTH
MEDICAL ASSISTANCE ADMINISTRATION
JUNE 18, 2003

GOOD MORNING CHAIRPERSON ALLEN AND MEMBERS OF THE COMMITTEE. I WELCOME THIS OPPORTUNITY TO SHARE WITH YOU THE RESULTS OF OUR RE-INSPECTION OF THE DEPARTMENT OF HEALTH (DOH), MEDICAL ASSISTANCE ADMINISTRATION, (HEREAFTER REFERRED TO AS MAA). HERE AT THE TABLE WITH ME TODAY ARE ALVIN WRIGHT, ASSISTANT IG FOR INSPECTIONS AND EVALUATIONS, AND SID ROCKE, DIRECTOR OF THE OIG MEDICAID FRAUD CONTROL UNIT, WHICH IS A DIVISION OF THE OFFICE OF THE INSPECTOR GENERAL (OIG).

THESE HEARINGS PROVIDE BENEFICIAL FEEDBACK TO INSPECTED AGENCIES AS WELL AS TO THOSE WHO OVERSEE THEM. THEY ALSO SERVE AS A PERMANENT, PUBLIC RECORD OF THE ISSUES WE IDENTIFY, THE RECOMMENDATIONS WE MAKE, AND THE MILESTONES FOR IMPROVEMENT ESTABLISHED FOR ALL THOSE INVOLVED IN OUR INSPECTIONS, RE-INSPECTIONS, AND AUDIT ACTIVITIES.

BACKGROUND AND OBJECTIVES

THE MAA IS RESPONSIBLE FOR ADMINISTERING THE DISTRICT'S MEDICAID PROGRAM BY DEVELOPING AND IMPLEMENTING ELIGIBILITY, SERVICE DELIVERY, AND REIMBURSEMENT POLICIES. MAA ALSO IS CHARGED WITH MONITORING THE MEDICAID CLAIMS PROCESSING SYSTEM FOR INDICATIONS OF FRAUD AND ABUSE. IF FRAUDULENT OR SUSPICIOUS ACTIVITY IS SUSPECTED, CASES ARE REFERRED TO THE OIG'S MEDICAID FRAUD CONTROL UNIT.

THE RE-INSPECTION OF THE MAA WAS A FOLLOW-UP TO OUR INITIAL INSPECTION THAT TOOK PLACE BETWEEN FEBRUARY AND APRIL 2000, AND THAT PRODUCED 30 FINDINGS AND 45 RECOMMENDATIONS. RE-INSPECTIONS AND FOLLOW-UP REPORTS ARE THE KEY COMPONENTS OF THE OIG COMPLIANCE PROCESS. WE DEVELOPED THIS PROCESS TO ASSIST DISTRICT MANAGERS IN IMPROVING SERVICE DELIVERY BASED ON THE FINDINGS AND RECOMMENDATIONS THAT WE ALL AGREE UPON. BECAUSE RE-INSPECTIONS ARE A REVIEW OF MATTERS THAT HAVE ALREADY BEEN DISCUSSED IN DETAIL, WE DO NOT SEND RE-INSPECTION REPORTS OUT IN DRAFT TO AGENCIES FOR COMMENT PRIOR TO PUBLICATION.

HOW THE RE-INSPECTION WAS CONDUCTED

THE REINSPECTION TEAM REVIEWED MAA'S COMPLIANCE WITH THE RECOMMENDATIONS MADE IN THE INITIAL MAA REPORT OF INSPECTION BY CONDUCTING INTERVIEWS, INSPECTING WORK AREAS, DIRECTLY OBSERVING SPECIFIC WORK PROCESSES, AND REVIEWING DOCUMENTATION. THE TEAM ALSO CONDUCTED A VOLUNTARY, ANONYMOUS SURVEY OF MAA EMPLOYEES, BUT DUE TO THE LESS THAN 50% RESPONSE RATE BY EMPLOYEES, THE TEAM WAS UNABLE TO DEVELOP A STATISTICALLY VALID ANALYSIS OF THE RESULTS.

WHERE THE TEAM FOUND THAT MAA HAD CORRECTED OR IMPROVED A CONDITION CITED IN THE ORIGINAL REPORT, OUR RE-INSPECTION REPORT DESCRIBES THE CURRENT STATUS AS "IN COMPLIANCE." WHERE THE TEAM FOUND THAT MAA HAD NOT IMPROVED THE ORIGINAL CONDITION, OR HAD ONLY MADE A PARTIAL IMPROVEMENT, MAA WAS CITED AS EITHER "NOT IN COMPLIANCE" OR "PARTIALLY IN COMPLIANCE." WHEN AN AGENCY DISAGREES WITH AN OIG FINDING AND RECOMMENDATION ABOUT A CONDITION BUT OFFERS AN ALTERNATIVE ASSESSMENT AND A FIX THAT APPEARS TO BE ACCEPTABLE, WE CONSIDER THE MATTER RESOLVED.

NO NEW RECOMMENDATIONS ARE MADE IN OUR RE-INSPECTION REPORTS. HOWEVER, INSPECTORS ARE INSTRUCTED TO BE OBSERVANT AND TO REPORT

ANY NEW PROBLEMS THEY BELIEVE MAY SERIOUSLY AFFECT BASIC OPERATIONS OF AN AGENCY, PARTICULARLY IN THE AREAS OF EMPLOYEE HEALTH AND SAFETY.

SPECIAL RECOVERY RESULTING FROM INITIAL INSPECTION

BEFORE I REPORT ON OUR RE-INSPECTION RESULTS, I WANT TO NOTE THAT THE MOST SIGNIFICANT FINDING IN OUR ORIGINAL INSPECTION REPORT POINTED OUT THAT NEITHER MAA NOR ANY OTHER APPROPRIATE DISTRICT AGENCY HAD ATTEMPTED TO RECOVER MILLIONS OF DOLLARS IN ERRONEOUS MEDICAID PAYMENTS MADE BECAUSE OF A COMPUTER SOFTWARE GLITCH. OUR INSPECTION DISCOVERED THAT MAA'S COMPUTER CONTRACTOR HAD BEEN PAID FOR PROCESSING CLAIMS FROM 247,000 INELIGIBLE RECIPIENTS BETWEEN 1993 AND 1996 AND PAYING THEM MILLIONS OF DOLLARS IMPROPERLY. BASED ON OUR INSPECTION REPORT, THE OIG MEDICAID FRAUD CONTROL UNIT ASSUMED THE LEAD AMONG DISTRICT AGENCIES TO TAKE THE LEGAL STEPS NECESSARY TO RECOVER THESE FUNDS. ON APRIL 23, 2003, A SETTLEMENT WAS ANNOUNCED IN WHICH THE CONTRACTOR AGREED TO REPAY 13 MILLION DOLLARS TO THE MEDICAID PROGRAM, AND THE DISTRICT AND THE FEDERAL GOVERNMENT EACH RECEIVED FIFTY PERCENT OF THE REPAYMENT.

HIGHLIGHTS OF MAJOR FINDINGS

OUR RE-INSPECTION FOUND THAT **35** OF THE **45** ORIGINAL RECOMMENDATIONS (77%) WERE IN FULL COMPLIANCE, **3** WERE FOUND TO BE IN PARTIAL COMPLIANCE, AND **7** ARE CONSIDERED TO BE NOT IN COMPLIANCE. MY TESTIMONY WILL SUMMARIZE OUR FINDINGS ON THOSE CONDITIONS THAT WE BELIEVE TO BE SIGNIFICANT AND NOT IN COMPLIANCE.

THE SURVEILLANCE AND UTILIZATION REVIEW UNIT (HEREAFTER CALLED SUR) CONTINUES TO HAVE PROBLEMS THAT KEEP IT FROM EFFECTIVELY MONITORING THE PROPER AND EFFICIENT USE OF THE DISTRICT'S MEDICAID SYSTEM. SOME EXPERTS PUT THE AMOUNT OF MEDICAID FRAUD NATIONWIDE AT MORE THAN \$8 BILLION DOLLARS A YEAR. THE FEDERAL

GOVERNMENT MANDATES THAT STATES HAVE A MEDICAID POST-PAYMENT REVIEW PROCESS TO EVALUATE HOW RECIPIENTS AND PROVIDERS USE THE MEDICAID SYSTEM, AND TO IDENTIFY PRACTICES THAT MAY BE IMPROPER AND RESULT IN FRAUD, WASTE, OR ABUSE. WITHIN MAA, THE SUR UNIT'S REVIEW OF CLAIMS PLAYS A CRITICAL ROLE IN THIS IMPORTANT TASK.

DURING THE INITIAL INSPECTION, THE SUR UNIT HAD ONLY 5 EMPLOYEES TO REVIEW APPROXIMATELY 30,000 SERVICE PROVIDERS AND 125,000 MEDICAID RECIPIENTS. SINCE THE INSPECTION, THE SUR UNIT AND ITS FUNCTIONS HAVE BEEN SUBDIVIDED. THE FRAUD IDENTIFICATION FUNCTION IS NOW HANDLED BY A NEWLY CREATED OFFICE OF INVESTIGATIONS AND COMPLIANCE (OIC) THAT HAS FOUR STAFF MEMBERS, A SUPERVISOR, AND A DIRECTOR. THE POST-PAYMENT REVIEW FUNCTION REMAINED WITH THE SUR UNIT, WHICH NOW HAS FOUR STAFF MEMBERS AND A DIRECTOR WHO ALSO SERVES AS DIRECTOR OF THE THIRD PARTY LIABILITY PROGRAM. OUR PREVIOUS FINDINGS APPLIED TO BOTH FUNCTIONS OF THE SUR AS IT WAS COMPOSED IN 2000. ALTHOUGH THE POST-PAYMENT REVIEW PROCESS HAS BEEN REORGANIZED, THE FOLLOWING PROBLEMS DETRACT FROM THE PROGRAM'S EFFECTIVENESS:

- THREE OF THE FOUR EMPLOYEES IN THE UNIT ARE NEWLY HIRED AND ARE UNABLE TO PERFORM INDEPENDENTLY, LEAVING ONLY ONE EXPERIENCED STAFF MEMBER. THE UNIT IS SAID TO HAVE SEVERAL VACANCIES.
- ALTHOUGH EMPLOYEES HAVE RECEIVED ON THE JOB TRAINING FROM THE SINGLE EXPERIENCED STAFF MEMBER, THEY HAVE NOT HAD ANY FORMAL TRAINING IN THE CRITICAL JOB ELEMENTS THAT WOULD IMPROVE THEIR ABILITY TO DETECT PROBLEMS AND THE IMPROPER USE OF MEDICAID PROGRAMS.
- BOTH MANAGERS AND EMPLOYEES STATED THAT MAA'S COMPUTER SYSTEM DOES NOT GENERATE THE KIND OF REPORTS THEY NEED TO ANALYZE THE USAGE PATTERNS OF MEDICAID PROVIDERS AND

RECIPIENTS.

- THE UNIT HAS NO WRITTEN POLICIES AND PROCEDURES THAT GOVERN THE TERMS AND CONDITIONS OF REPAYMENT BY PROVIDERS WHO HAVE BEEN OVERPAID. CONSEQUENTLY, REPAYMENT SCHEDULES ARE NEGOTIATED WITH PROVIDERS BASED ON MAA EMPLOYEES' BEST JUDGMENT.
- IN ADDITION, THE UNIT DOES NOT HAVE WRITTEN POLICIES AND PROCEDURES THAT SUPPORT THE MAJOR DAY-TO-DAY FUNCTIONS OF THE UNIT.
- EMPLOYEES COMPLAIN THAT MANAGEMENT HAS NOT PROVIDED THE ADDITIONAL TRAINING NEEDED ON THE NEW MAA COMPUTER SYSTEM. CONSEQUENTLY, THEY CANNOT GENERATE THE REPORTS THEY NEED TO DETECT FRAUD AND ABUSE, DEVELOP MEDICAID PROGRAM POLICIES, AND MONITOR THE QUALITY OF THE MEDICAID SYSTEM.
- SUR EMPLOYEES STATED THAT THEY ARE NOT ADEQUATELY TRAINED TO DETECT PROVIDER FRAUD AND ABUSE AND TO CONDUCT PROVIDER AUDITS.
- THE UNIT STILL LACKS THE COMPUTERS AND CELLULAR PHONES NEEDED TO CONDUCT ON-SITE AUDITS. THEY ALSO REQUIRE A GOVERNMENT VEHICLE FOR ON-SITE VISITS.

MAA'S ABILITY TO DISCOVER NON-MEDICAID SOURCES TO PAY FOR RECIPIENTS' HEALTHCARE IS HAMPERED BY A DEFICIENCY IN THE COMPUTER SYSTEM. DISTRICT AND FEDERAL LAW MANDATE THAT POSSIBLE PAYMENT SOURCES AVAILABLE TO PATIENTS SUCH AS PRIVATE HEALTH INSURANCE, EMPLOYMENT-RELATED HEALTH INSURANCE, WORKERS COMPENSATION, COURT JUDGMENTS, SETTLEMENTS, ESTATE PROBATES, LONG-TERM-CARE INSURANCE, MEDICARE AND OTHER PROGRAMS BE CONSIDERED BY

MAA TO AVOID IMPROPERLY CHARGING THE MEDICAID SYSTEM.

- IN ORDER TO RECOVER FUNDS FROM THESE SOURCES, MAA HAS A THIRD PARTY LIABILITY OR TPL SECTION. EMPLOYEES STATED THAT THEIR RECOVERY EFFORTS MUST BE DONE MANUALLY BECAUSE THE MAIN COMPUTER SYSTEM NEEDS A SUBSYSTEM THAT AUTOMATICALLY IDENTIFIES CLAIMS AND INSURERS. SUCH A SYSTEM WOULD SAVE MONEY FOR THE MEDICAID SYSTEM. FURTHERMORE, COST RECOVERY AMOUNTS HAVE DECLINED SINCE MAA STOPPED USING A CONTRACTOR AND BEGAN TO DO THESE RECOVERIES IN-HOUSE.

ADDITIONAL FOLLOW-UP ACTIVITIES

THE OIG INSPECTIONS AND EVALUATION DIVISION WILL CONTINUE TO TRACK ALL RECOMMENDATIONS THAT HAVE NOT BEEN ACTED UPON, AND WILL KEEP THE LINES OF COMMUNICATION OPEN AMONG OIG, MAA MANAGEMENT, AND OTHER AFFECTED STAKEHOLDERS UNTIL ALL FINDINGS AND RECOMMENDATIONS HAVE BEEN ADDRESSED. I WOULD NOTE THAT SERIOUS DEFICIENCIES IN THE PERFORMANCE OF THIS \$800 MILLION AGENCY WILL CONTINUE UNTIL ALL RECOMMENDATIONS HAVE BEEN IMPLEMENTED.

AS I HAVE NOTED ON PREVIOUS OCCASIONS, WE WILL ISSUE PERIODIC REPORTS ON THE COMPLIANCE OF DOH AND OTHER INSPECTED AGENCIES TO THIS COMMITTEE AND TO ALL OTHER RECIPIENTS OF OUR ORIGINAL INSPECTION REPORTS. BASED ON THE COOPERATION AND RESPONSIVENESS EXHIBITED BY DOH LEADERSHIP THUS FAR, I AM CONFIDENT THAT THE DEPARTMENT WILL TAKE POSITIVE STEPS TOWARD IMPROVING ITS OPERATIONS AND PERFORMANCE.

THIS CONCLUDES MY TESTIMONY ON OUR RE-INSPECTION OF THE MEDICAL ASSISTANCE ADMINISTRATION, AND I WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.